

REMARKS

An invention is not obvious where the elements cited in the prior art references in support of an obviousness rejection solve problems that are different than that solved by the combination of elements in the invention. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F. 2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absence of teaching or suggestion supporting the combination. The teaching suggesting the combination cannot come from the application or the claims under consideration. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F. 2d 1572, 221 USPQ929 (Fed. Cir. 1984).

The fact the prior art elements could have been combined is insufficient to support a prima facie case of obviousness. There must be a suggestion to do so. *In re Fritch*, 972 F. 2d 1260, 23 USPQ 2d 1780 (Fed. Cir. 1992).

The chaff spreaders cited in the prior art references are directed towards different problems. Variability of the speed of the chaff spreader in Garner promotes a better spread of the chaff outside the machine, see column 5. Likewise, in the Kirby reference, the variable speed of the chaff spreader is for a better spread of the chaff outside the machine, see Column 2. Finally in Bruns, the speed variability of the chaff spreader is also for better spread of the chaff outside the machine, see Column 3. None of these references so much as mention solving any other problems.

In the present application, air flow is different when components of the invention are in different positions. When a crop distribution device 49--see page 7, line 17 and after--is in a first position, chaff from a first source and long straw from a separate crop stream associated with the

rotors, are variably managed for discharge. The crop distribution device has a second position that mixes the material from the two crop streams. Each of these positions creates a different air flow. Accordingly, a different problem than the prior art problem of chaff spreading is addressed by the present invention's combination of an air flow sensor (95) with the variable speed exhaust fan.

“In accordance with the present invention, there is provided an agricultural harvester for discharging non-grain components without substantial turbulence or interference, wherein the non-grain components and grain are transported together or separately from each other and without affecting each other.” See, specification, page 2.

Even a cursory examination of the Hall and Hoskinson references reveal that there is no such dual or changeable air path that must be managed by blower fans or their control systems in those references. They too fail to address the problem addressed by the present invention, as distinctly recited in claim 7. (Of course then they also fail to suggest or motivate the combination relied upon by the Office Action.)

“The crop guide element 41 has a second pivot position shown by broken lines in Fig. 1, wherein the crop string 50 exiting the opening 13 of the rotor housing 11 passes through the crop comminutor 47 and is introduced to the crop stream 32 being conveyed away from the cleaning device 24, which is transferred in comminuted form or crop stream 53 to the crop distributing device 49.” Specification, page 10, lines 5-14.

This sophisticated system solves flow and throughput problems that were not even considered by the engineering of the references. The references cannot possibly suggest or

motivate the solution recited in claim 7, even assuming, arguendo, the ingenious notion that a crop spreader is a fan.

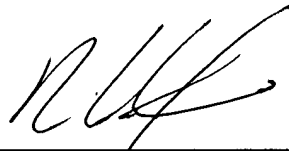
Conclusion

It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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